

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

REGINA THOMAS,)	
)	
Plaintiffs,)	
)	
v.)	NO. 07 CV 6596
)	
UNKNOWN CHICAGO POLICE)	JUDGE COAR
OFFICERS, DET. BRIAN JOHNSON)	MAGISTRATE JUDGE SCHENKIER
STAR #20948, and THE CITY OF)	
CHICAGO,)	
)	
Defendants.)	

**DEFENDANT BRIAN JOHNSON'S ANSWER, JURY DEMAND,
AND AFFIRMATIVE DEFENSE TO THE COMPLAINT**

Defendants, Brian Johnson and City of Chicago, by their attorney, Thomas J. Platt, Chief Assistant Corporation Counsel, submit their Answer, Jury Demand, Affirmative Defense to the Complaint in this case on behalf of themselves and not on behalf of any unknown or unserved defendants, stating as follows:

**COUNT I - ILLEGAL SEARCH
JURISDICTION AND VENUE**

1. This Court has jurisdiction based on 28 U.S.C. §§1331 and 1343(a) because the case raises federal constitutional issues.

ANSWER: Defendant admits this court has jurisdiction over the federal claims raised in this case.

2. The Court has supplementary jurisdiction over substantially related state claims based on 28 U.S.C. 1367(a).

ANSWER: Defendant admits this court has supplementary jurisdiction over the state claim raised in Count II of the Complaint.

3. This is an appropriate venue because all of the alleged acts occurred within the Northern District of Illinois and all of the parties reside within the Northern District of Illinois.

ANSWER: Defendants admit that venue is proper.

4. This action is brought pursuant to 42 U.S.C. §1983 for violations of Plaintiff's constitutional rights under the Fourth Amendment as incorporated and applied to state governments through the Fourteenth Amendment to the United States Constitution.

ANSWER: Defendants admit that the complaint purports to state claims pursuant to 42 U.S.C. § 1983 for alleged violations constitutional rights, but deny plaintiff has stated claims upon which relief can be granted.

PARTIES

5. Plaintiff is a citizen of the United States and resident of Chicago, Illinois.

ANSWER: On information and belief, defendants admit the allegations in this paragraph.

6. Unknown Chicago Police officers and Det. Brian Johnson were on duty and acting under color of state law at all times relevant to this Complaint.

ANSWER: Defendants admit that on March 10, 2007, Det. Brian Johnson was on duty as a Chicago Police officer and acted under color of law, but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

7. The City of Chicago is a municipality organized under the laws of the State of Illinois and it is the employer of the unknown Chicago Police officers and Det. Brian Johnson.

ANSWER: Defendants admit City of Chicago is a municipality organized under the laws of the State of Illinois and it is the employer of Det. Brian Johnson, but is without

knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

THE FOURTH AMENDMENT VIOLATION

8. On March 10, 2007, Plaintiff was in her residence at 8008 S. Escanaba Ave., Chicago, Illinois

ANSWER: On information and belief, defendants admit the allegations in this paragraph.

9. The Defendants did not have a search warrant for the Plaintiff or the Plaintiff's residence on March 10, 2007.

ANSWER: Defendants admit the allegations in this paragraph.

10. The Defendants did not have an arrest warrant for the Plaintiff on March 10, 2007.

ANSWER: Defendants admit the allegations in this paragraph.

11. The Defendants did not witness the Plaintiff breaking any city, county, state, and/or federal law at 8008 S. Escanaba Ave., Chicago, IL on March 10, 2007.

ANSWER: These Defendants admit that Brian Johnson did not witness Plaintiff breaking any law at 8008 S. Escanaba, Chicago, Illinois on March 10, 2007.

12. The Defendants did not have consent to search the Plaintiff or her residence on March 10, 2007.

ANSWER: These Defendants affirmatively state that Brian Johnson was not present at plaintiff's residence located at 8008 S. Escanaba on March 10, 2007 and admit that Brian Johnson did not have consent to search Plaintiff of her residence on March 10, 2007.

13. On March 10, 2007, the Defendants forcibly and illegally entered the Plaintiff's residence.

ANSWER: Defendants deny Brian Johnson forcibly and illegally entered the Plaintiff's residence on March 10, 2007.

14. The Defendants proceeded to verbally threaten and curse at the Plaintiff.

ANSWER: Defendants deny the allegations in this paragraph.

15. The Defendants displayed their weapons and proceeded to search Plaintiff's residence while the Plaintiff protested their presence and ordered them to leave.

ANSWER: Defendants deny Brian Johnson was present at plaintiff's residence, deny he displayed his weapon and deny the remaining allegations in this paragraph.

16. The Defendant officers detained the Plaintiff in violation of Plaintiff's rights under the Fourth Amendment.

ANSWER: Defendants deny the allegations in this paragraph.

17. As a direct and proximate result of the unconstitutional detention, the Plaintiff suffered actual harm.

ANSWER: Defendants deny the allegations in this paragraph.

COUNT II - STATUTORY INDEMNIFICATION

1-17. Plaintiff re-alleges paragraphs 1-17 of Counts I as paragraphs 1-17 of Count II.

ANSWER: Defendants adopt and reallege paragraphs 1-17 of Count I of their answer as paragraphs 1-17 of Count II.

18. At all relevant times 745 ILCS 10/9-102 was in full force and effect.

ANSWER: On information and belief and belief, Defendants admit the allegations in this paragraph

19. The defendant officers were acting under color of state law and as employees of the City of Chicago.

ANSWER: Defendants admit Brian Johnson acted under color of law as an employee of the City of Chicago, but denies he was present at 8008 S Escanaba on March 10, 2007.

WHEREFORE, defendants Brian Johnson and City of Chicago requests judgment in their favor and against plaintiff, with costs or such other relief this court deems appropriate.

AFFIRMATIVE DEFENSES

Defendant Brian Johnson was a government officials, namely a police officer, who performed discretionary functions. At all times material to the events alleged in the Complaint, a reasonable police officer objectively viewing the facts and circumstances that confronted him could have believed his actions to be lawful, in light of clearly established law and the information that Defendant possessed. Therefore, Defendant Brian Johnson is entitled to qualified immunity on Plaintiff's 42 U.S.C. §1983 claims.

JURY DEMAND

Defendants request trial by jury.

Respectfully submitted,

/s/ Thomas J. Platt
Chief Assistant Corporation Counsel
Attorney for Brian Johnson and City of Chicago

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Atty. No. 06181260

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NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Regina Thomas,)	
)	
Plaintiff)	
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v.)	No. 07 C 6596
)	
Unknown Chicago Police Officers,)	Judge Coar
Det. Brian Johnson, Star 20948 and the)	
City of Chicago et. al.)	Magistrate Schenkier
_____)	

NOTICE OF FILING

To: Thomas Peters
Kevin Peters
407 S. Dearborn Street, Suite 1675
Chicago, Illinois 60605

PLEASE TAKE NOTICE that I have this day filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, Defendants' City of Chicago and Brian Johnson's Answer, Jury Demand and Affirmative Defense.

I hereby certify that I have caused a true and correct copy of the above and foregoing Answer, Jury Demand and Affirmative Defense to be electronically filed and served pursuant to the Rules of the Northern District of Illinois to the persons named above February 5, 2008

DATED at Chicago, Illinois this February 5, 2008.

Respectfully submitted,

/s/ Thomas J. Platt
Assistant Corporation Counsel

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